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Attorneys for Defendants CITY OF REDWOOD CITY;  
sued herein as the CITY OF REDWOOD CITY AND  
THE REDWOOD CITY POLICE DEPARTMENT;

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

MARVIN CONLEY, MARLIN CONLEY,  
MARVISHA CONLEY,

Plaintiffs,

vs.

REDWOOD CITY; REDWOOD CITY  
POLICE DEPARTMENT; OFFICER S.  
SYSUM; MS. ROSEMARY WILLIAMS;  
MRS. RHONDA WILLIAMS COKER; and  
DOES 1-10, INCLUSIVE

Defendants.

Case No. C08-2101 VRW

**DEFENDANT'S ANSWER TO  
PLAINTIFFS' COMPLAINT; NOTICE OF  
INTENT TO SEEK ATTORNEYS' FEES;  
AND DEMAND FOR JURY TRIAL**

COMES NOW Defendant CITY OF REDWOOD CITY, and in answer to the Complaint on  
file herein, admit, deny and allege as follows.

**JURISDICTION**

1. Defendant admits the allegations contained in Paragraph 1.

**INTRA-DISTRICT ASSIGNMENT**

2. Defendant admits the allegations contained in Paragraph 2.

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**PARTIES**

3. Answering the allegations contained in Paragraphs 3, 7, and 8, Defendant alleges that it is without sufficient information or belief to enable it to answer the allegations of these paragraphs and, basing its denial on that ground, denies each and every allegation contained therein.

4. Answering the allegations contained in Paragraph 4, Defendant admits that the CITY OF REDWOOD CITY is a public entity in the State of California, and that the Redwood City Police Department is a department of the CITY OF REDWOOD CITY. Defendant denies each and every other allegation in that paragraph.

5. Answering the allegations contained in Paragraph 5, Defendant admits that the Redwood City Police Department is a department of the CITY OF REDWOOD CITY. Defendant denies each and every other allegation in that paragraph.

6. Defendant admits the allegations contained in Paragraph 6.

7. Answering the allegations contained in Paragraphs 9 and 10, Defendant admits that OFFICER SYSUM was acting within the course and scope of his employment for the CITY OF REDWOOD CITY and acting under color of authority and/or under color of law. Defendant denies each and every other allegation in those paragraphs.

8. Answering the allegations contained in Paragraphs 11 and 12, Defendant denies each and every allegation contained therein.

**COMMON ALLEGATION**

9. Answering the allegations contained in Paragraphs 13, 14, and 15, Defendant alleges that it is without sufficient information or belief to enable it to answer the allegations of these paragraphs and, basing its denial on that ground, denies each and every allegation contained therein.

10. Defendant admits the allegations contained in Paragraph 16.

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**FIRST CAUSE OF ACTION**  
**(42 U.S.C. 1983)**  
**ALL DEFENDANTS**

11. Answering the allegations in Paragraph 17 of the Complaint, Defendant re-alleges and incorporates by reference herein its answers to Paragraphs 1 through 16 as though fully set forth herein.

12. Answering the allegations in Paragraph 18 of the Complaint, Defendant denies each and every allegation contained therein.

**SECOND CAUSE OF ACTION**  
**42 U.S.C. 1983 – Monell’s Ruling**  
**DEFENDANTS REDWOOD CITY AND REDWOOD CITY POLICE DEPARTMENT;**  
**SYSUM; WILLIAMS; AND COKER**

13. Answering the allegations in Paragraph 19 of the Complaint, Defendant re-alleges and incorporates by reference herein its answers to Paragraphs 1 through 18 as though fully set forth herein.

14. Answering the allegations in Paragraphs 20 through 26 of the Complaint, Defendant denies each and every allegation contained therein.

**THIRD CAUSE OF ACTION**  
**FALSE ARREST AND IMPRISONMENT**  
**DEFENDANTS SYSUM; WILLIAMS; COKER; AND DOES 1 – 50**

15. Answering the allegations in Paragraph 27 of the Complaint, Defendant re-alleges and incorporates by reference herein its answers to Paragraphs 1 through 26 as though fully set forth herein.

16. Answering the allegations in Paragraph 28 of the Complaint, Defendant denies each and every allegation contained therein.

**FOURTH CAUSE OF ACTION**  
**INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**  
**DEFENDANTS SYSUM; WILLIAMS; AND COKER**

17. Answering the allegations in Paragraph 29 of the Complaint, Defendant re-alleges and incorporates by reference herein its answers to Paragraphs 1 through 28 as though fully set forth herein.

18. Answering the allegations in Paragraphs 30, 31, and 32 of the Complaint, Defendant denies each and every allegation contained therein.

**FIFTH CAUSE OF ACTION  
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS  
DEFENDANTS SYSUM; WILLIAMS; AND COKER**

19. Answering the allegations in Paragraph 33 of the Complaint, Defendant re-alleges and incorporates by reference herein its answers to Paragraphs 1 through 32 as though fully set forth herein.

20. Answering the allegations in Paragraph 34 of the Complaint, Defendant admits that Defendants were subject to a duty of care to avoid causing unnecessary infliction of emotional distress to citizens in the exercise of police functions. Defendant denies each and every other allegation in that paragraph.

21. Answering the allegations in Paragraph 35 of the Complaint, Defendant denies each and every allegation contained therein.

**SIXTH CAUSE OF ACTION  
NEGLIGENCE  
DEFENDANTS SYSUM; WILLIAMS; AND COKER**

22. Answering the allegations in Paragraph 36 of the Complaint, Defendant re-alleges and incorporates by reference herein its answers to Paragraphs 1 through 35 as though fully set forth herein.

23. Answering the allegations in Paragraph 37 of the Complaint, Defendant admits that OFFICER SYSUM was subject to a duty of care to avoid causing unnecessary harm and risk to citizens to in the exercise of the police functions. Defendant denies each and every other allegation in that paragraph.

24. Answering the allegations in Paragraph 38 of the Complaint, Defendant denies each and every allegation contained therein.

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1 **SEVENTH CAUSE OF ACTION**  
2 **NEGELIGENT HIRING, TRAINING AND SUPERVISION**  
3 **DEFENDANTS REDWOOD CITY AND REDWOOD CITY POLICE DEPARTMENT**

4 25. Answering the allegations in Paragraph 39 of the Complaint, Defendant  
5 re-alleges and incorporates by reference herein its answers to Paragraphs 1 through 38 as though  
6 fully set forth herein.

7 26. Defendant admits the allegations contained in Paragraph 40.

8 27. Answering the allegations in Paragraph 41, 42, 43, and 44 of the Complaint,  
9 Defendant denies each and every allegation contained therein.

10 **EIGHTH CAUSE OF ACTION**  
11 **DEFAMATION**  
12 **DEFENDANTS SYSUM; WILLIAMS; AND COKER**

13 28. Answering the allegations in Paragraph 45 of the Complaint, Defendant  
14 re-alleges and incorporates by reference herein its answers to Paragraphs 1 through 44 as though  
15 fully set forth herein.

16 29. Answering the allegations in Paragraph 46 and 47 of the Complaint, Defendant  
17 denies each and every allegation contained therein.

18 **STATEMENT OF DAMAGES**

19 30. Answering the allegations in Paragraph 48 of the Complaint, Defendant  
20 re-alleges and incorporates by reference herein its answers to Paragraphs 1 through 47 as though  
21 fully set forth herein.

22 31. Answering the allegations in Paragraph 49, 50, and 51 of the Complaint, Defendant  
23 denies each and every allegation contained therein.

24 **FIRST AFFIRMATIVE DEFENSE**

25 This answering Defendant alleges that the Complaint fails to state a cause of action against  
26 this answering Defendant.

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**SECOND AFFIRMATIVE DEFENSE**

This answering Defendant denies any wrongdoing, negligence or liability on its part but, should it be determined that this Defendant is liable to plaintiffs, then this Defendant alleges that plaintiffs were also legally at fault, and possibly others as well, and thus any recovery that might otherwise be rendered against this Defendant must be reduced by that percentage which reflects the comparative fault of others.

**THIRD AFFIRMATIVE DEFENSE**

This answering Defendant alleges that plaintiffs acted with full knowledge of all the facts and circumstances surrounding their injuries and that said matters of which they assumed the risk proximately contributed to and proximately caused the damages, if any.

**FOURTH AFFIRMATIVE DEFENSE**

This answering Defendant alleges its acts were privileged.

**FIFTH AFFIRMATIVE DEFENSE**

This answering Defendant alleges that at all times relevant herein, Defendant's officers acted without malice and with probable cause.

**SIXTH AFFIRMATIVE DEFENSE**

This answering Defendant alleges that each of the acts alleged to have been committed by Defendant Redwood City Police Officers were committed in good faith and in the exercise of a good faith belief that said acts were proper and lawful and within their legal responsibility and discretion.

**SEVENTH AFFIRMATIVE DEFENSE**

This answering Defendant alleges that the acts complained of occurred within the scope of Defendant's official duties and Defendant had no knowledge that said acts were illegal and/or unconstitutional nor were said acts clearly violative of plaintiffs' rights at the time they were committed.

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**EIGHTH AFFIRMATIVE DEFENSE**

This answering Defendant alleges that plaintiffs were guilty of willful and gross carelessness, misconduct and negligence in and about the matters set forth in the complaint, and that said willful and gross behavior proximately caused and contributed to the happening of the incident and to the injuries, loss and damages complained of, and plaintiffs willful and gross behavior either bars or reduces any potential recovery.

**NINTH AFFIRMATIVE DEFENSE**

This answering Defendant alleges that plaintiffs by their own conduct, induced and intentionally caused and brought about the conduct of which plaintiffs complain, and the injuries, loss and damages complained of, and plaintiffs' intentional conduct either bars or reduces any potential recovery.

**TENTH AFFIRMATIVE DEFENSE**

This answering Defendant alleges that plaintiffs consented to the acts complained of in the complaint and that said consent was both express and implied.

**ELEVENTH AFFIRMATIVE DEFENSE**

This answering Defendant alleges that each and every cause of action is barred by qualified immunity.

**TWELFTH AFFIRMATIVE DEFENSE**

This answering Defendant alleges that this Complaint is barred by the relevant portions of the California Government Code, including, but not limited to, §§ 815, 815.2, 818, 818.8, 820, 820.2, 820.21, 820.4, 820.6, 820.8, 821.6, 821.8 and 822.2.

**THIRTEENTH AFFIRMATIVE DEFENSE**

This answering Defendant alleges that this Complaint is barred by the relevant portions of Welfare and Institutions Code §§ 300 et. seq., including, but not limited to §§ 305, 306 and 309.

**FOURTEENTH AFFIRMATIVE DEFENSE**

This answering Defendant contends that plaintiffs' cause of action is barred by virtue of the doctrine of unclean hands.

**FIFTEENTH AFFIRMATIVE DEFENSE**

This answering Defendant alleges that plaintiffs have failed to mitigate the alleged damages, if any, which they claim to have sustained, and their recovery, if any, should be barred or diminished accordingly.

**SIXTEENTH AFFIRMATIVE DEFENSE**

This answering Defendant alleges that plaintiffs' Complaint, and each cause of action therein, is barred by the statutes of limitations set forth in the Code of Civil Procedure §§ 335 through 349.4 including but not limited to § 342.

**SEVENTEENTH AFFIRMATIVE DEFENSE**

This answering Defendant contends that plaintiffs' cause of action is barred by virtue of plaintiffs' failure to comply with Government Code § 900, et seq. and, particularly, Government Code § 911.2.

**EIGHTEENTH AFFIRMATIVE DEFENSE**

This answering Defendant contends that plaintiffs' cause of action is barred by virtue of Civil Code § 47.

**NINETEENTH AFFIRMATIVE DEFENSE**

This answering Defendant contends that plaintiffs' action is frivolous, unreasonable and without foundation and therefore defendants are entitled to attorneys' fees and costs pursuant to 42 U.S.C. §1988 and Code of Civil Procedure §§ 1021.7 and 1038.

WHEREFORE, this answering Defendant prays that plaintiffs take nothing by their Complaint, for costs of suit herein, and for such other and further relief as to the Court may seem reasonable and proper.

Date: August 1, 2008

HOWARD ROME MARTIN & RIDLEY LLP

By: /s/ Joseph C. Howard, Jr.

Joseph C. Howard, Jr.

Attorneys for Defendants

CITY OF REDWOOD CITY



**NOTICE OF INTENT TO SEEK ATTORNEYS' FEE**

TO PLAINTIFFS AND TO THEIR ATTORNEY OF RECORD:

PLEASE TAKE NOTICE that Defendant contends that plaintiffs' Complaint was not filed nor maintained in good faith or with reasonable cause and that this Defendant is entitled to and intends to seek reasonable attorneys' fees from the plaintiffs and from plaintiffs' attorney of record, pursuant to Title 42 U.S.C. §1988 and Code of Civil Procedure §§ 1021.7 and 1038.

Date: August 1, 2008

HOWARD ROME MARTIN & RIDLEY LLP

By: /s/ Joseph C. Howard, Jr.

Joseph C. Howard, Jr.

Attorneys for Defendants

CITY OF REDWOOD CITY

**JURY DEMAND**

This answering Defendant hereby demands a trial by jury in this action.

Date: August 1, 2008

HOWARD ROME MARTIN & RIDLEY LLP

By: /s/ Joseph C. Howard, Jr.

Joseph C. Howard, Jr.

Attorneys for Defendants

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